

SEALED

BY ORDER OF THE COURT
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

FILED

2010 DEC 21 P 2:09 ✓

U.S. DISTRICT COURT
EASTERN DIST. TENN.

BY _____ DEPT. CLERK

UNITED STATES OF AMERICA,

PLAINTIFF,

vs.

JEFFREY WHALEY,

DEFENDANT.

No. 3:10-CR-169
Judge _____

UNDER SEAL

INDICTMENT

The Grand Jury charges:

COUNT 1
(Conspiracy to Commit Wire Fraud)

At all times material hereto:

1. SunTrust Mortgage, Inc. (hereinafter "SMI") was in the business of mortgage lending. SMI was a wholly owned subsidiary of SunTrust Bank, the deposits of which were insured by the Federal Deposit Insurance Corporation.
2. Guaranty Land Title Company (hereinafter "Guaranty Land Title"), located at 204 Parkway, Sevierville, Tennessee, and Crossroad Title, Inc. (hereinafter "Crossroad Title"), located at 8005 Lett Road, Corryton, Tennessee, were real estate closing agencies responsible for preparing settlement statements and disbursing mortgage proceeds and other funds.
3. The defendant, JEFFREY WHALEY, conducted business using the name "GBO Enterprises" (hereinafter "GBO").

The Conspiracy and Its Objects

4. From on or about November 14, 2005 through on or about May 31, 2006, within the Eastern District of Tennessee, and elsewhere, the defendant, JEFFREY WHALEY, did knowingly and unlawfully conspire, combine, confederate and agree with others, known and unknown to the grand jury, to commit wire fraud, that is: to knowingly devise and intend to devise and to participate in a scheme and artifice to defraud, and to obtain money by means of materially false and fraudulent pretenses, representations, and omissions, and for the purpose of executing such scheme and artifice, to cause to be transmitted by means of wire in interstate commerce, writings, signs, and signals, in violation of Title 18, United States Code, Section 1343, thereby affecting a financial institution.

5. The purpose of the conspiracy was to induce SMI, by means of materially false and fraudulent pretenses, representations, and omissions, to fund and disburse mortgage loans for other borrowers (hereinafter "the straw borrowers") to purchase real properties and to obtain, for the personal benefit of the coconspirators, a portion of the money loaned and disbursed to fund the straw borrowers' purchases of the real properties.

Manner and Means of the Conspiracy

6. It was part of the conspiracy that straw borrowers were found and convinced to enter into contracts to purchase real properties in Sevier County, Tennessee.

7. It was part of the conspiracy that the straw borrowers were told that they could acquire real properties in Sevier County, Tennessee without making a down payment and that they would be paid cash after the closing for each real property that they agreed to acquire.

8. It was part of the conspiracy that the straw borrowers were told that the real

property they acquired would be placed in a rental program and that all mortgage payments and maintenance expenses would be covered by rental revenue.

9. It was part of the conspiracy that the straw borrowers were told that they would never be personally required to make a payment or incur an expense for any real property they acquired.

10. It was part of the conspiracy that the straw borrowers were promised that the real property they were acquiring would be resold within one year and that they would receive a portion of the profit of the subsequent resale of the real property.

11. It was part of the conspiracy that some of the fraudulent real estate transactions involved not only straw borrowers, but also involved straw, or nominee, sellers. Such fraudulent transactions are known as "property flips."

12. It was part of the conspiracy that for the transactions involving a property flip, a subject property would be identified and placed under contract by a straw, or nominee, buyer, who then, a very short time later in a subsequent real estate transaction, would become a straw, or nominee, seller and "sell" or "flip" the same property at a substantially higher price to an unsuspecting straw borrower who had been promised if he agreed to acquire the subject property, then he would not have to make a down payment or mortgage payments for the subject property, would receive cash at closing, and would share in the profit following a resale of the subject property, as alleged above in paragraphs 7 through 10.

13. It was part of the conspiracy that materially false representations and pretenses, including fraudulent omissions, were made to SMI, which, among other things, included materially false representations and pretenses and fraudulent omissions related to the straw

borrowers' source of funds for down payments and amounts recorded as "cash from borrower" on HUD-1 Settlement Statements, for the purpose of inducing SMI to disburse through its closing agent the mortgage loan proceeds it had wired to and entrusted with its closing agent.

14. It was part of the conspiracy that coconspirators concealed material facts from SMI, and thereby made material misrepresentations by omission to SMI, by among other things, concealing the fact that persons, other than the borrowers, were providing the funds at closing to satisfy the amount recorded as the "cash from borrower" on HUD-1 Settlement Statements, for the purpose of inducing SMI to disburse through its closing agent the mortgage loan proceeds it had wired to and entrusted with its closing agent.

Property located at 1531 Trappers Ridge Lane, Sevierville, Tennessee

15. It was part of the conspiracy that on or about December 6, 2005, a straw, or nominee, buyer (B.B.) entered into a contract to purchase the real property located at 1531 Trappers Ridge Lane, Sevierville, Tennessee (hereinafter "the Trappers Ridge Lane Property") from the defendant, JEFFREY WHALEY, for \$855,000.

16. It was part of the conspiracy that between December 6, 2005, and December 20, 2005, a "Uniform Residential Loan Application," which contained material misrepresentations including, but not limited to, the misrepresentation that no part of the borrower's down payment would be borrowed, was submitted to SMI for the purpose of influencing SMI's decision to approve a mortgage loan to straw borrower B.B. to be used to purchase the Trappers Ridge Lane Property.

17. It was part of the conspiracy that on or about December 20, 2005, straw borrower B.B. was instructed to sign, and did in fact sign, an "Occupancy Affidavit", that falsely and

materially misrepresented that the Trappers Ridge Lane Property was “secondary residence” and would “not be income producing.”

18. It was part of the conspiracy that on or about December 20, 2005, the defendant, JEFFERY WHALEY, certified the accuracy of a Form HUD-1 Settlement Statement that falsely stated that \$38,755.11 had been provided to Guaranty Land Title in “cash from borrower,” namely straw borrower B.B., at the closing for the Trappers Ridge Lane Property.

19. It was part of the conspiracy that on or about December 21, 2005, at 8:57 a.m., the defendant, JEFFREY WHALEY, caused an endorsed Guaranty Land Title escrow account check payable to another business entity (R.D.) in the amount of \$99,350 (hereinafter the “\$99,350 GLT check”), which had been funded with money provided by SMI and held in escrow by Guaranty Land Title for the real estate closing for the Trappers Ridge Lane Property, to be deposited into a GBO Tennessee State Bank account.

20. It was part of the conspiracy that on or about December 21, 2005, at 8:59 a.m., after the defendant, JEFFREY WHALEY, had caused the \$99,350 GLT check to be deposited into GBO’s bank account, the defendant, JEFFREY WHALEY, caused Tennessee State Bank to draw – from the same GBO bank account into which he had deposited the \$99,350 GLT check – a cashier’s check in the amount of \$38,755.11 payable to Guaranty Land Title with the name of the buyer of the Trappers Ridge Property (straw borrower B.B.) stated as the remitter (hereinafter “the \$38,755.11 TSB cashier’s check”), thereby concealing on the face of the \$38,755.11 TSB check that SMI’s money had actually been used to fund it.

21. It was part of the conspiracy that on or about December 21, 2005, the defendant, JEFFREY WHALEY, caused the \$38,755.11 TSB cashier’s check to be delivered to Guaranty

Land Title to fraudulently satisfy the amount recorded as the "cash from borrower" on the HUD-1 Settlement Statement for the 1531 Trappers Ridge Property closing, for the purpose of fraudulently maintaining the false pretense to SMI that the buyer of the Trappers Ridge Property (straw borrower B.B.) in fact brought \$38,755.11 in cash to the closing for the 1531 Trappers Ridge Property.

22. It was part of the conspiracy that on or about December 21, 2005, the defendant, JEFFREY WHALEY retained the benefit of at least \$387,641.37 in proceeds from SMI's disbursement through its closing agent of mortgage loan proceeds for the closing of the 1531 Trappers Ridge Property.

23. It was part of the conspiracy that on or about December 20, 2005, the defendant, JEFFREY WHALEY, and his coconspirators caused to be transmitted, by means of wire communication in interstate commerce the following writings, signs, and signals: a \$609,104.77 wire transfer in mortgage proceeds from SunTrust Mortgage, Inc. in Atlanta, Georgia, to Guaranty Land Title, in Sevierville, Tennessee for the purchase of real property located at 1531 Trappers Ridge Lane, Sevierville, Tennessee.

24. It was part of the conspiracy that on or about December 20, 2005, the defendant, JEFFREY WHALEY, and his coconspirators caused to be transmitted, by means of wire communication in interstate commerce the following writings, signs, and signals: a \$210,602.34 wire transfer in mortgage proceeds from SunTrust Mortgage, Inc. in Atlanta, Georgia, to Guaranty Land Title, in Sevierville, Tennessee for the purchase of real property located at 1531 Trappers Ridge Lane, Sevierville, Tennessee.

Property located at 954 Black Bear Cub Way, Sevierville, Tennessee

25. It was part of the conspiracy that on or about December 9, 2005, a straw, or nominee, buyer (R.D.) entered into a contract to purchase the real property located at 954 Black Bear Cub Way, Sevierville, Tennessee (hereinafter "the Black Bear Cub Way Property") from that property's current owner (E.M.) for \$709,900.

26. It was part of the conspiracy that on or about December 9, 2005, the same straw, or nominee, buyer (R.D.) referenced above in paragraph 25 became a straw, or nominee seller, and entered into a subsequent contract to sell, or "flip," the Black Bear Cub Way Property to straw borrower D.B. for \$819,900.

27. It was part of the conspiracy that between December 9, 2005, and January 4, 2006, the contract to purchase the Black Bear Cub Way Property was revised to replace straw, or nominee, buyer (R.D.) with a different straw, or nominee, buyer (E.W.)

28. It was part of the conspiracy that between December 9, 2005, and January 4, 2005, a "Uniform Residential Loan Application," which contained material misrepresentations including, but not limited to, the misrepresentation that no part of the borrower's down payment would be borrowed, was submitted to SMI for the purpose of influencing SMI's decision to approve a mortgage loan to straw borrower D.B. to be used to purchase the Black Bear Cub Way Property.

29. It was part of the conspiracy that on or about January 4, 2006, at 1:46 p.m., the defendant, JEFFREY WHALEY, caused an endorsed Guaranty Land Title escrow account check payable to E.W. in the amount of \$81,331.07 (hereinafter the "\$81,331.07 GLT check"), which had been funded with money provided by SMI and held in escrow by Guaranty Land Title for the

real estate closing for the Black Bear Cub Way Property, to be deposited into a GBO Tennessee State Bank account.

30. It was part of the conspiracy that on or about January 4, 2006, at 1:55 p.m., after the defendant, JEFFREY WHALEY, had caused the \$81,331.07 GLT check to be deposited into GBO's bank account, the defendant, JEFFREY WHALEY, caused Tennessee State Bank to draw – from the same GBO bank account into which he had deposited the \$81,331.07 GLT check – a cashier's check in the amount of \$45,634.62 payable to Guaranty Land Title with the name of the buyer of the Black Bear Cub Way Property (straw borrower D.B.) stated as the remitter (hereinafter "the \$45,634.62 TSB cashier's check"), thereby concealing on the face of the \$45,634.62 TSB check that SMI's money actually had been used to fund it.

31. It was part of the conspiracy that on or about January 4, 2006, the defendant, JEFFREY WHALEY, had the \$45,634.62 TSB cashier's check delivered to Guaranty Land Title to fraudulently satisfy the amount recorded as the "cash from borrower" on the HUD-1 Settlement Statement for the Black Bear Cub Way Property closing, for the purpose of fraudulently maintaining the false pretense to SMI that the Black Bear Cub Way Property buyer (straw borrower D.B.) in fact brought \$45,634.62 in cash to the closing for the Black Bear Cub Way Property.

32. It was part of the conspiracy that on or about January 4, 2006, the defendant, JEFFREY WHALEY retained the benefit of at least \$5,696.45 in proceeds from SMI's disbursement through its closing agent of mortgage loan proceeds for the closing of the Black Bear Cub Way Property.

33. It was part of the conspiracy that on or about January 4, 2006, the defendant,

JEFFREY WHALEY, and his coconspirators caused to be transmitted, by means of wire communication in interstate commerce the following writings, signs, and signals: a \$576,981.97 wire transfer in mortgage proceeds from SunTrust Mortgage, Inc. in Atlanta, Georgia, to Guaranty Land Title, in Sevierville, Tennessee for the purchase of real property located at 954 Black Bear Cub Way, Sevierville, Tennessee.

34. It was part of the conspiracy that on or about January 4, 2006, the defendant, JEFFREY WHALEY, and his coconspirators caused to be transmitted, by means of wire communication in interstate commerce the following writings, signs, and signals: a \$197,866.28 wire transfer in mortgage proceeds from SunTrust Mortgage, Inc. in Atlanta, Georgia, to Guaranty Land Title, in Sevierville, Tennessee for the purchase of real property located at 954 Black Bear Cub Way, Sevierville, Tennessee.

Property located at 3515 Peggy Lane, Pigeon Forge, Tennessee

35. It was part of the conspiracy that on or about January 27, 2006, a straw, or nominee, buyer (E.W.) entered into a contract to purchase the real property located at 3515 Peggy Lane, Pigeon Forge, Tennessee (hereinafter "the 3515 Peggy Lane Property") from that property's current owner (D.K.) for \$280,000.

36. It was part of the conspiracy that on or about January 27, 2006, the same straw, or nominee, buyer (E.W.) referenced above in paragraph 35 became a straw, or nominee seller, and entered into a subsequent contract to sell, or "flip," the 3515 Peggy Lane Property to straw borrower W.H. for \$385,220.

37. It was part of the conspiracy that between January 27, 2006, and March 8, 2006, a "Uniform Residential Loan Application," which contained material misrepresentations including,

but not limited to, the misrepresentation that no part of the borrower's down payment would be borrowed, was submitted to SMI for the purpose of influencing SMI's decision to approve a mortgage loan to straw borrower W.H. to be used to purchase the 3515 Peggy Lane Property.

38. It was part of the conspiracy that on or about March 9, 2006, at 9:00 a.m., the defendant, JEFFREY WHALEY, caused Tennessee State Bank to draw from a GBO Tennessee State Bank account a cashier's check in the amount of \$4,544.46 payable to "Guaranty Land Title" with the name of the buyer (straw borrower W.H.) of the 3515 Peggy Lane Property stated as the remitter (hereinafter "the \$4,544.46 TSB cashier's check").

39. It was part of the conspiracy that on or about March 9, 2006, the defendant, JEFFREY WHALEY, caused the \$4,544.46 TSB cashier's check to be delivered to Guaranty Land Title to fraudulently satisfy the amount recorded as the "cash from borrower" on the HUD-1 Settlement Statement for the 3515 Peggy Lane Property closing, for the purpose of fraudulently maintaining the false pretense to SMI that the 3515 Peggy Lane Property buyer (straw borrower W.H.) in fact brought \$4,544.46 in cash to the closing for the 3515 Peggy Lane Property.

40. It was part of the conspiracy that on or about March 9, 2006, the defendant, JEFFREY WHALEY, received a \$92,389.40 Guaranty Land Title escrow account check payable to E.W. who had been identified as the "seller" on the HUD-1 Settlement Statement for the 3515 Peggy Lane Property (hereinafter "the \$92,389.40 GLT check"), the \$92,389.40 GLT check having been endorsed by E.W. before its delivery to the defendant, JEFFREY WHALEY.

41. It was part of the conspiracy that on or about March 9, 2006, the defendant, JEFFREY WHALEY, deposited the \$92,389.40 GLT check into a GBO bank account at Tennessee State Bank.

42. It was part of the conspiracy that on or about March 9, 2006, the defendant, JEFFREY WHALEY retained the benefit of at least \$57,844.94 in proceeds from SMI's disbursement through its closing agent of mortgage loan proceeds for the closing of the 3515 Peggy Lane Property.

43. It was part of the conspiracy that on or about March 8, 2006, the defendant, JEFFREY WHALEY, and his coconspirators caused to be transmitted, by means of wire communication in interstate commerce the following writings, signs, and signals: a \$271,285.96 wire transfer in mortgage proceeds from SunTrust Mortgage, Inc. in Atlanta, Georgia, to Guaranty Land Title, in Sevierville, Tennessee for the purchase of real property located at 3515 Peggy Lane, Pigeon Forge, Tennessee.

44. It was part of the conspiracy that on or about March 8, 2006, the defendant, JEFFREY WHALEY, and his coconspirators caused to be transmitted, by means of wire communication in interstate commerce the following writings, signs, and signals: a \$111,445.50 wire transfer in mortgage proceeds from SunTrust Mortgage, Inc. in Atlanta, Georgia, to Guaranty Land Title, in Sevierville, Tennessee for the purchase of real property located at 3515 Peggy Lane, Pigeon Forge, Tennessee.

Property located at 3514 Peggy Lane, Pigeon Forge, Tennessee

45. It was part of the conspiracy that in or about February, 2006, a straw, or nominee, buyer (E.W.) entered into a contract to purchase the real property located at 3514 Peggy Lane,

Pigeon Forge, Tennessee (hereinafter "the 3514 Peggy Lane Property") from that property's current owner (D.L.) for \$409,000.

46. It was part of the conspiracy that on or about February 3, 2006, the same straw, or nominee, buyer (E.W.) referenced above in paragraph 45 became a straw, or nominee seller, and entered into a contract to sell, or "flip," the 3514 Peggy Lane Property to straw borrower R.L. for \$550,000.

47. It was part of the conspiracy that between February 3, 2006, and March 10, 2006, a "Uniform Residential Loan Application," which contained material misrepresentations including, but not limited to, the misrepresentation that no part of the borrower's down payment would be borrowed, was submitted to SMI for the purpose of influencing SMI's decision to approve a mortgage loan to straw borrower R.L. to be used to purchase the 3514 Peggy Lane Property.

48. It was part of the conspiracy that on or about March 10, 2006, at 12:52 p.m., the defendant, JEFFREY WHALEY, caused Tennessee State Bank to draw from a GBO Tennessee State Bank account a cashier's check in the amount of \$33,753.72 payable to "Cross Roads Title Inc." with the name of the buyer of the 3514 Peggy Lane Property (straw borrower R.L.) stated as the remitter (hereinafter "the \$33,753.72 TSB cashier's check").

49. It was part of the conspiracy that on or March 10, 2006, the defendant, JEFFREY WHALEY, caused the \$33,753.72 TSB cashier's check to be delivered to Crossroad Title, Inc. fraudulently to satisfy the amount recorded as the "cash from borrower" on the HUD-1 Settlement Statement for the 3514 Peggy Lane Property closing, for the purpose of fraudulently maintaining the false pretense to SMI that the 3514 Peggy Lane Property buyer (straw borrower

R.L.) in fact brought \$33,753.72 in cash to the closing for the 3514 Peggy Lane Property.

50. It was part of the conspiracy that on or about March 10, 2006, the defendant, JEFFREY WHALEY, received a \$120,228.81 Home Federal Bank cashier's check payable to E.W. the person identified as the "seller" on the HUD-1 Settlement Statement for the 3514 Peggy Lane Property (hereinafter "the \$120,228.81 HFB cashier's check"), the \$120,228.81 HFB cashier's check having been endorsed by E.W. before its delivery to the defendant, JEFFREY WHALEY.

51. It was part of the conspiracy that on or about March 10, 2006, the defendant, JEFFREY WHALEY, deposited the \$120,228.81 HFB cashier's check into a GBO bank account at Tennessee State Bank.

52. It was part of the conspiracy that on or about March 10, 2006, the defendant, JEFFREY WHALEY retained the benefit of at least \$55,475.09 in proceeds from SMI's disbursement through its closing agent of mortgage loan proceeds for the closing of the 3514 Peggy Lane Property.

53. It was part of the conspiracy that on or about March 10, 2006, the defendant, JEFFREY WHALEY, and his coconspirators caused to be transmitted, by means of wire communication in interstate commerce the following writings, signs, and signals: a \$362,389.67 wire transfer in mortgage proceeds from SunTrust Mortgage, Inc. in Atlanta, Georgia, to Guaranty Land Title, in Sevierville, Tennessee for the purchase of real property located at 3514 Peggy Lane, Pigeon Forge, Tennessee.

54. It was part of the conspiracy that on or about March 10, 2006, the defendant, JEFFREY WHALEY, and his coconspirators caused to be transmitted, by means of wire

communication in interstate commerce the following writings, signs, and signals: a \$162,332.94 wire transfer in mortgage proceeds from SunTrust Mortgage, Inc. in Atlanta, Georgia, to Guaranty Land Title, in Sevierville, Tennessee for the purchase of real property located at 3514 Peggy Lane, Pigeon Forge, Tennessee.

55. As a result of the conspiracy, real properties acquired by the straw borrowers have gone into default and foreclosure, and SMI has sustained substantial monetary loss.

Overt Acts in Furtherance of the Conspiracy

56. In furtherance of the conspiracy, the following overt acts, among others, were committed in the Eastern District of Tennessee and elsewhere:

Number	Overt Act
1	On or about December 21, 2005, at 8:57 a.m., the defendant, JEFFREY WHALEY, caused an endorsed Guaranty Land Title escrow account check payable to another business entity (R.D.) in the amount of \$99,350, which had been funded with money provided by SMI and held in escrow by Guaranty Land Title for the real estate closing for the property located at 1531 Trappers Ridge Lane, Sevierville, Tennessee, to be deposited into a GBO Tennessee State Bank account.
2	On or about December 21, 2005, at 8:59 a.m., after the defendant, JEFFREY WHALEY, had caused the \$99,350 GLT check to be deposited into GBO's bank account, the defendant, JEFFREY WHALEY, caused Tennessee State Bank to draw – from the same GBO bank account into which he had deposited the

	<p>\$99,350 GLT check – a cashier’s check in the amount of \$38,755.11 payable to Guaranty Land Title with the name of the buyer of the Trappers Ridge Property (straw borrower B.B.) stated as the remitter.</p>
3	<p>On or about January 4, 2006, at 1:46 p.m., the defendant, JEFFREY WHALEY, caused an endorsed Guaranty Land Title escrow account check payable to E.W. in the amount of \$81,331.07, which had been funded with money provided by SMI and held in escrow by Guaranty Land Title for the real estate closing for the property located at 954 Black Bear Cub Way, Sevierville, Tennessee, to be deposited into a GBO Tennessee State Bank account.</p>
4	<p>On or about January 4, 2006, at 1:55 p.m., after the defendant, JEFFREY WHALEY, had caused the \$81,331.07 GLT check to be deposited into GBO’s bank account, the defendant, JEFFREY WHALEY, caused Tennessee State Bank to draw – from the same GBO bank account into which he had deposited the \$81,331.07 GLT check – a cashier’s check in the amount of \$45,634.62 payable to Guaranty Land Title with the name of the buyer of the 954 Black Bear Cub Way Property (straw borrower D.B.) stated as the remitter.</p>
5	<p>On or about March 9, 2006, at 9:00 a.m., the defendant, JEFFREY WHALEY, caused Tennessee State Bank to draw from a GBO Tennessee State Bank account a cashier’s check in the amount of \$4,544.46 payable to “Guaranty Land Title” with the name of the buyer (straw borrower W.H.) of the 3515 Peggy Lane Property stated as the remitter.</p>

6	On or about March 10, 2006, at 12:52 p.m., the defendant, JEFFREY WHALEY, caused Tennessee State Bank to draw from a GBO Tennessee State Bank account a cashier's check in the amount of \$33,753.72 payable to "Cross Roads Title Inc." with the name of the buyer of the 3514 Peggy Lane Property (straw borrower R.L.) stated as the remitter.
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[18 U.S.C. § 1349]

COUNTS 2-5
(Wire Fraud)

57. The allegations contained in paragraphs 1 through 56 of Count 1 of this indictment are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

58. On or about the dates set forth below, within the Eastern District of Tennessee, and elsewhere, the defendant, JEFFREY WHALEY, aided and abetted by, and aiding and abetting, others known to the grand jury, did knowingly, willfully, and with the intent to defraud devise and participate in a scheme and artifice to defraud and to obtain money from SunTrust Mortgage, Inc., by means of material and fraudulent pretenses, representations, and omissions, as more particularly described in paragraphs 1 through 56 of Count 1 of this indictment, and for the purpose of executing said scheme and artifice to defraud, did knowingly cause to be transmitted, by means of wire and radio communication in interstate commerce the following writings, signs, and signals, thereby affecting a financial institution with each commission of the offense:

Count	Date	Transmission
2	12/20/2005	\$609,104.77 wire transfer from SunTrust Mortgage, Inc., in Atlanta, Georgia, to Guaranty Land Title's bank account in Sevierville, Tennessee
3	01/04/2006	\$576,981.97 wire transfer from SunTrust Mortgage, Inc., in Atlanta, Georgia, to Guaranty Land Title's bank account in Sevierville, Tennessee
4	03/09/2006	\$271,285.96 wire transfer from SunTrust Mortgage, Inc., in Atlanta, Georgia, to Guaranty Land Title's bank account in Sevierville, Tennessee
5	03/10/2006	\$362,389.67 wire transfer from SunTrust Mortgage, Inc., in Atlanta, Georgia, to Crossroad Title, Inc.'s bank account in Knoxville, Tennessee

[18 U.S.C. §§ 1343, 2]

COUNT 6
(Money Laundering)

59. The allegations contained in paragraphs 1 through 56 of Count 1 and contained in and paragraphs 57 through 58 of Counts 2 through 5 of this indictment are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

60. On or about December 21, 2005, within the Eastern District of Tennessee, the defendant, JEFFREY WHALEY, did knowingly engage and attempt to engage in a monetary transaction with a financial institution, affecting interstate commerce, in criminally derived property of a value greater than \$10,000, that is by causing Tennessee State Bank Cashier's

Check No. 69884 in the amount of \$60,594.89 to be issued and drawn against the GBO Tennessee State Bank account into which the defendant, JEFFREY WHALEY, had previously, on December 21, 2005, deposited the \$99,350 GLT check, such property having been derived from a specified unlawful activity, that is the conspiracy to commit wire fraud in Count 1 of this indictment in violation of Title 18, United States Code, Section 1349, and the execution of the scheme and artifice to defraud alleged in Count 2 of this indictment in violation of Title 18, United States Code, Section 1343, and Tennessee State Bank being a financial institution, the deposits of which were then insured by the Federal Deposit Insurance Corporation.

[18 U.S.C. § 1957]

COUNT 7
(Money Laundering)

61. The allegations contained in paragraphs 1 through 56 of Count 1 and contained in and paragraphs 57 through 58 of Counts 2 through 5 of this indictment are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

62. On or about January 4, 2006, within the Eastern District of Tennessee, the defendant, JEFFREY WHALEY, did knowingly engage and attempt to engage in a monetary transaction with a financial institution, affecting interstate commerce, in criminally derived property of a value greater than \$10,000, that is by causing Tennessee State Bank Cashier's Check No. 070389 in the amount of \$20,000.00 to be issued and drawn against the GBO Tennessee State Bank account into which the defendant, JEFFREY WHALEY, had previously, on January 4, 2006, deposited the \$81,331.07 GLT check, such property having been derived from a specified unlawful activity, that is the conspiracy to commit wire fraud in Count 1 of this

indictment in violation of Title 18, United States Code, Section 1349, and the execution of the scheme and artifice to defraud alleged in Count 3 of this indictment in violation of Title 18, United States Code, Section 1343, and Tennessee State Bank being a financial institution, the deposits of which were then insured by the Federal Deposit Insurance Corporation.

[18 U.S.C. § 1957]

Forfeiture Allegations Relating to Counts 1 through 5

63. The allegations contained in paragraphs 1 through 56 and contained in Count 1 and in paragraphs 56 through 57 of Counts 2 through 5 of this indictment are repeated, realleged and incorporated by reference as if fully set forth herein for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Section 982(a)(2) and Title 18, United States Code, Section 981(a)(1)(C), as incorporated by Title 28, United States Code, Section 2461.

64. Upon conviction of the offense in violation of Title 18, United States Code, Section 1349 set forth in Count 1 of this indictment, and upon conviction of the offenses in violation of Title 18, United States Code, Section 1343, set forth in Counts 2 through 5 of this indictment, defendant, JEFFREY WHALEY, shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 982(a)(2) and Title 18, United States Code, Section 981(a)(1)(C), as incorporated by Title 28, United States Code, Section 2461, any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of any such violation, including a money judgment in the amount of the proceeds derived from any such violation.

65. If any of the property described above, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1) and Title 28, United States Code, Section 2461(c).

[18 U.S.C. §§ 981(a)(1)(C), 982(a)(2)(A); 28 U.S.C. § 2461]

A TRUE BILL:

s/Foreperson
FOREPERSON

WILLIAM C. KILLIAN
UNITED STATES ATTORNEY

s/Francis M. Hamilton III
Francis M. Hamilton III
Assistant United States Attorney